

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$75.00 for dates of service 11/05/01 and 12/05/01.
- b. The request was received on 03/26/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 05/07/02
 - b. HCFA(s)-1500
 - c. EOB(s)
 - d. EOB(s) from other carriers
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution dated 05/30/02
 - b. EOB(s)
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 05/15/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 05/16/02. The response from the insurance carrier was received in the Division on 05/30/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 05/07/02:

"Total amount in dispute is \$75.00. The disputed issue is that the Carrier has paid \$212.50 for each date of service stating reduced to fair and reasonable...The expected outcome of this issue is that we feel the claims should be paid in full....We have billed the Carrier our usual and customary rate and have provided the Carrier with examples of

audit sheets and/or copies of checks where other carriers in this area have established the \$250.00 monthly rental fee for the lumbar traction unit as a fair and reasonable amount...”

2. Respondent: Letter dated 05/30/02:
“(Provider) has not established that its fees meet the statutory criteria....(Provider) attempts to justify its usual and customary charges asserting that some other carriers pay its usual and customary charges in full....(Provider) has failed to produce any evidence showing how (Carrier)’s reimbursement fails to comply with Section 413.011....(Provider) has provided no information explaining how its charges comply with Labor Code 413.011....(Provider) is not entitled to additional reimbursement.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 11/05/01 and 12/05/01.
2. The provider billed a total of \$500.00 for the dates of service in dispute.
3. The carrier reimbursed a total of \$425.00 for both dates of service in dispute and it’s EOB denial code is “M –REDUCED TO FAIR AND REASONABLE.”
4. The amount in dispute per the TWCC-60 is \$75.00 for both dates in dispute.
5. The provider billed CPT code E1399 RR for a Hometracer Traction Unit at \$250.00 for each disputed date of service. E1399 is a DOP procedure.

V. RATIONALE

Medical Review Division's rationale:

The Medical Fee Guideline General Instruction (III) states, “Documentation of procedure (DOP) in the maximum allowable reimbursement (MAR) column indicates that the value of this service shall be determined by written documentation attached to or included in the bill.” Rule 133.305 (e) (1) (F) reports, “if the dispute involves treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1...”

Texas Labor Code Section 413.011(b) states, “Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

The Medical Fee Guidelines General Instructions (VI) discuss that if a MAR value has not been established for a CPT code, reimbursement shall be, “...at the fair and reasonable rate.”

Because there is no current fee guideline for DOP procedures, the Medical Review Division has to determine what would be fair and reasonable reimbursement for the services provided. The provider did submit EOB(s) from other carriers. Regardless of the carrier's application of its methodology, lack of methodology, or response, the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable. The provider's documentation is EOB(s) or is based on EOB(s). The willingness of some carriers to provide reimbursement at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(b) of the Texas Labor Code. The EOB(s) prove no evidence of amounts paid on behalf of with an equivalent standard of living. Based on the evidence available for review, the provider did not meet the criteria of Rule 413.011 (b) and did not prove that the carrier's reimbursement is not fair and reasonable. Therefore, the provider is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 5th day of August 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.